IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Shinobu KURIYA et al.)	Group Art Unit: 2436
)	
Application No.: 10/624,019)	Examiner: Okoronkwo, Chinwendo C.
)	
Filed: July 21, 2003)	Confirmation No: 5079
)	
For: INFORMATION PROCESSING)	
APPARATUS, INFORMATION)	
PROCESSING METHOD, AND)	
COMPUTER PROGRAM USED)	
THEREWITH)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicants request a pre-appeal brief review of the Final Office Action mailed

June 8, 2009. This Request is being filed concurrently with a Notice of Appeal.

I. Requirements For Submitting a Pre-Appeal Brief Request for Review

Applicants have met each of the requirements for a pre-appeal brief review of

rejections set forth in an Office Action. The application has been at least twice rejected.

Applicants file a Notice of Appeal with this Request, and have not yet filed an Appeal

Brief. Applicants submit this Pre-Appeal Brief Request for Review that is five (5) or less

pages in length and sets forth legal or factual deficiencies in the rejections. *See* Official

Gazette Notice, July 12, 2005.

II. **Status of the Claims**

Claims 1-3, 5-7, 9-12, 14-16, 18-21, 23-25, and 27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,103,663 to Inoue et al. ("*Inoue*") in view of U.S. Patent No. 5,917,912 to Ginter et al. ("*Ginter*") and U.S. Patent No. 7,110,984 to Spagna et al. ("*Spagna*").

III. **The rejection of Claims 1-3, 5-7, 9-12, 14-16, 18-21, 23-25, and 27 under 35 U.S.C. § 103(a)**

Applicants respectfully traverse the rejection of claims 1-3, 5-7, 9-12, 14-16, 18-21, 23-25 and 27 under 35 U.S.C. § 103(a) as being unpatentable over *Inoue* in view of *Ginter* and *Spagna*.

Independent claim 1 recites an information processing apparatus of a client comprising "a means for generating, after the client purchases the content, a restoration request file and storing the restoration request file on the information processing apparatus of the client, . . . wherein transmitting the restoring request includes uploading the restoration request file." *Inoue*, *Ginter*, and *Spagna*, alone or in combination, fail to teach or suggest the claimed means for generating.

Inoue discloses a single type of request, a license issue request. Col. 5, lines 55-62. In *Inoue*, a first device can put usage restrictions on a second terminal device or user such that licenses are issued to the second device to permit content usage under the restriction. Col. 2, lines 6-16.

Inoue does not disclose "generating, after the client purchases the content, a restoration request file and storing the restoration request file on the information

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processing apparatus of the client," "wherein transmitting the restoring request includes uploading the restoration request file."

In the Final Office Action, the Examiner asserts that the "means for generating" is taught by *Inoue* "5:49-54 - 'license ticket, which is issued in response to the license ticket issuance request from the user who purchases the content' and 7:4-6 - 'generating the license on which the usage (restoration request) duration or usage number in this request and the content key received from the content distribution server 130 are written.' However, the Examiner is incorrect. With respect to the license ticket of col. 5, the license ticket is generated by a right management server. In contrast, the generating means of claim 1 is an element of the "information processing apparatus of the client." The license generated in col. 7 is also generated by the rights management server. *See* fig. 1 and col. 6, line 52, to col. 7, line 9.

Moreover, in the Final Office Action, the Examiner appears to be mapping the same feature of *Inoue* to multiple elements of claim 1. For example, the Final Office Action asserts that a license or license ticket teaches "the usage right . . . initially issued by the license server" and "a restoration request file." *See* Final Office Action at 3-5. Firstly, this interpretation is unreasonable as the usage right and the "restoration request file" are claimed as separate elements of claim 1. Secondly, this interpretation is unreasonable as a license and/or a request for a license does not teach or suggest a restoration request or a restoration request file.

Furthermore, the final Office Action relies upon *Inoue* to teach "wherein the restoration request includes uploading the restoration request file" while simultaneously stating that "Inoue is silent in disclosing a restoring request." Final Office Action at 5. Instead, the Final Office Action relies on *Ginter* to teach the claimed restoration request. However, *Ginter* discloses a restore routine to restore a secure database based on a backup. Col. 167, lines 35-38. *Ginter* does not teach or suggest the claimed restoration request file.

Spagna does not cure the deficiencies of *Inoue*. That is, *Spagna* does not teach or suggest the above-referenced elements of claim 1, nor does the Final Office Action rely on *Spagna* to teach these elements. Instead, *Spagna* merely discloses a method for creating additional copies of a content. (Abstract). In *Spagna*, when a second copy of the identical content is requested, a hash value from the new transaction received during the request for an additional license is compared to a hash value in a local database. Col. 96, lines 21-35. If the hash values match, re-downloading the content is avoided. *Id.* at lines 36-39. If the hash values do not match, the requested content must be downloaded from a hosting site. *Id.* at lines 39-43.

Ginter does not cure the deficiencies of *Inoue* and *Spagna*. That is, *Ginter* does not teach or suggest the above-referenced elements of claim 1, nor does the Final Office Action rely on *Ginter* to teach these elements.

Inoue, *Spagna*, and *Ginter*, alone or in combination, fail to teach or suggest an information processing apparatus of a client comprising "a means for generating, after

the client purchases the content, a restoration request file and storing the restoration request file on the information processing apparatus of the client, . . . wherein transmitting the restoring request includes uploading the restoration request file." Accordingly, *Inoue*, *Spagna*, and *Ginter*, alone or in combination, cannot render claim 1 obvious.

Independent claims 6, 10, 15, 19, and 24, while of different scope than claim 1, are allowable over the cited art for at least similar reasons to those discussed above with respect to claim 1. Dependent claims 2-3, 5, 7, 9, 11, 12, 14, 16, 18, 20, 21, 23, 25, and 27 are also allowable for at least the reasons set forth above in connection with independent claims 1, 6, 10, 15, 19 and 24. Accordingly, Applicants respectfully request withdrawal of the rejection of the claims under 35 U.S.C. § 103(a).

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

If there is any fee due in connection with the filing of this Pre-Appeal Brief, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

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Dated: September 4, 2009   By:___/David W. Hill/_____
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                                                    Reg. No. 28,220